

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**

11 KEVIN SO,

12 Plaintiff,

13 v.

14 LAND BASE, LLC, et al.

15 Defendants.
16

CASE NO. CV 08-3336 DDP (AGRx)

PROTECTIVE ORDER

17
18 Defendants CTL Projects International, LLC, KB&M Projects International, LLC
19 and Kevin Kondas (collectively the "Objecting Defendants") having filed a Motion to
20 Quash or Alternatively Motion for Protective Order in relation to *subpoenas duces tecum*
21 served by Plaintiff Kevin So on the following banks: (i) Wells Fargo Bank, N.A. (ii)
22 JPMorgan Chase Bank, and (iii) Sun Trust Bank (collectively, the "Bank Subpoenas")
23 and the Court having considered the Motion, Plaintiff's opposition, all papers filed
24 regarding the Motion, the argument of the parties, and good cause appearing,
25

26 IT IS HEREBY ORDERED as follows:

27 1. Any and all documents (and copies of the same) or other information
28 produced to Plaintiff's counsel in response to the Bank Subpoenas which relate in any

1 way to the Objecting Defendants shall be designated "Attorneys Eyes Only Information."
2 Plaintiff's counsel shall deliver copies of such Attorneys Eyes Only Information to
3 counsel for the Objecting Defendants and shall not give or disclose it to any other
4 person except as provided elsewhere in this Order.

5 2. Confidential Information or Attorneys Eyes Only Information used at trial
6 will become public absent a separate court order upon written motion and sufficient
7 cause shown.

8 3. Plaintiff's counsel and any other person receiving the Attorneys Eyes
9 Only Information subject to this Protective Order (collectively "Receiving Parties")
10 may disclose the Attorneys Eyes Only Information to "Qualified Recipients," defined
11 as follows:

- 12 a. The Receiving Parties' legal counsel of record, including such counsel's
13 support staff (e.g., paralegals, legal secretaries and law clerks);
 - 14 b. Court personnel, including stenographic reporters engaged in
15 proceedings necessarily incident to the preparation for trial or trial of this
16 matter;
 - 17 c. Persons retained by the Receiving Parties' or such parties' counsel of
18 record to serve as expert witnesses, consultants and/or independent experts
19 to provide advice to counsel in connection with this action; and
 - 20 d. Witnesses providing deposition or hearing testimony in this litigation, to
21 the extent it is reasonably necessary that they review the Confidential
22 Information to prepare for or provide their testimony; and
 - 23 e. Such other persons as hereinafter may be designated by written
24 stipulation of the party producing the confidential documents and the party
25 seeking to make the disclosure, or by further Order of the Court.
- 26
27
28

1 4. Any Qualified Recipient, other than the Court and its personnel, who
2 receives any Attorneys Eyes Only Information shall be subject to the terms of this
3 Protective Order.

4 5. Before counsel discloses any Confidential Information or Attorneys Eyes
5 Only Information, or their contents, to any person pursuant to the provisions of
6 Paragraph 4(c) or 4(e) above, counsel shall provide the person to whom the
7 disclosure is to be made with a copy of this Order, and shall require such person to
8 signify in writing that he or she has reviewed, and consents to be bound by, the
9 terms hereof. This consent to the terms of the Order shall be in the form attached
10 hereto as Exhibit A. Counsel shall retain the signed Exhibit A forms for the persons
11 to whom counsel made the disclosure.

12 6. If Plaintiff intends to use any of the Attorneys Eyes Only Information at
13 trial in this matter, Plaintiff's counsel is permitted to make disclosure to parties to this
14 litigation as required by Federal Rule of Civil Procedure 26 or other applicable rules
15 or statutes, provided counsel, at least ten days prior to the intended disclosure,
16 provides the Objecting Parties with a redacted version of the Attorneys Eyes Only
17 Information he intends to disclose, which redacts all addresses, account numbers,
18 social security numbers and birth dates (other than year of birth). The redacted
19 version of the Attorneys Eyes Only Information shall be designated Confidential
20 Information and its disclosure is subject to the provisions in Paragraph 5.

21 7. If any party to this litigation objects to the applicability of this Protective
22 Order to the Confidential Information or the Attorneys Eyes Only Information, they
23 may file a motion with the Court seeking an appropriate order in compliance with
24 Local Rule 37.

25 8. Counsel for any party desiring to disclose Attorneys Eyes Only
26 Information to any person other than those specified in paragraph 3 above, shall, at
27 least fifteen (15) days prior to making such disclosure, deliver to the Objecting
28

1 Defendant whose Attorneys Eyes Only Information is at issue a written notice of
2 intent to make such disclosure identifying fully the documents to be disclosed and
3 the person to whom the disclosure is to be made. Within ten (10) days after receipt
4 of such written notice, the Objecting Defendant whose Attorneys Eyes Only
5 Information is at issue may object thereto in writing, stating specifically the reasons
6 why it believes the disclosure should not be made. If no objection is made in such
7 time and manner, the Attorneys Eyes Only Information may be disclosed to the
8 person identified in the written notice. If an objection is timely made, the party
9 seeking to prevent the disclosure may apply to the Court for an order prohibiting the
10 disclosure.

11 9. Confidential Information or Attorneys Eyes Only Information may be
12 used for any legitimate purpose related to the litigation of this matter, including
13 amending or revising any claim or defense presented in this matter, pursuing further
14 discovery, obtaining access to witnesses who may testify at the trial, or for review
15 and analysis by any person who is expressly retained by the Receiving Party in this
16 action to render legal assistance in the preparation of the case (e.g., experts).

17 10. Should Plaintiff or his counsel wish to use the Attorneys Eyes Only
18 Information or Confidential Information in any other litigation arising from the dispute
19 described in Plaintiff's Complaint, the parties will meet and confer in good faith in an
20 attempt to reach agreement on the use of the Information in such proceedings,
21 subject to the terms of this Protective Order. Absent such agreement, the parties
22 may, either individually or jointly, apply to this Court for order modifying this
23 protective order.

24 11. Upon the conclusion of the trial of this litigation, whether such actions
25 are terminated by final award, settlement or otherwise, any and all Attorneys Eyes
26 Only Information and Confidential Information produced as described above, and
27 any summaries or extracts of the same, shall be destroyed, after which Plaintiff's
28

1 counsel shall submit to counsel for the Objecting Defendants a certification that all
2 such documents have been destroyed. Notwithstanding this provision, Plaintiff's
3 counsel may retain the Attorneys Eyes Only Information or Confidential Information if
4 permitted under a separate stipulation or order of the Court upon motion.

5 12. This Protective Order will apply automatically to any *subpoenas duces*
6 *tecum* served by Plaintiff on any additional financial institutions seeking the records
7 of the Objecting Defendants, regardless of what court issues such subpoenas,
8 without further stipulation by the parties or further order of this Court.

9 13. Nothing contained in this Order shall be construed to prejudice the right
10 of any party thereto to file Attorneys Eyes Only Information or Confidential
11 Information with the Court in connection with this litigation or to use such documents
12 at trial or any deposition, hearing or proceeding in this matter in compliance with
13 Local Rule 79-5.1 and 79-5.4. Any party wishing to submit any of the Attorneys
14 Eyes Only Information or Confidential Information, or their contents, including any
15 discovery response or deposition transcript (including exhibits thereto), shall seek
16 leave of the Court to file the Information under seal in compliance with Local Rule
17 79-5.1. The parties understand that the Court in its discretion may determine that
18 the Information in question need not be filed or maintained under seal. When filing
19 Attorneys Eyes Only Information or Confidential Information under seal, the party
20 shall comply with all statutes and rules of court.

21 14. Nothing in this Order shall be construed to relieve any party from the
22 obligation to timely respond to discovery requests, nor shall this Order be construed
23 as a waiver of the right to assert any objection to a discovery request.

24 ///

25 ///

26 ///

27

28

1 15. The provisions of this Order may be modified only by a subsequent,
2 written agreement of the parties hereto or by order of the Court.

3
4 **SO ORDERED.**

5
6
7
8 Dated: May 26, 2009



Alicia G. Rosenberg
United States Magistrate Judge

CONSENT TO PROTECTIVE ORDER

I, _____, have read the attached Protective Order and consent to abide by its terms and to submit to the jurisdiction of the United States District Court, Central District of California, for the purpose of enforcement of said Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that thus Consent was executed on this _____ day of _____, 20____, at _____, _____.

Signature

Name

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28